

Appl. No. 10/798,198

Amdt. dated July 12, 2006

Reply to Office Action of April 12, 2006

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Claims 1-19 were pending in the above-identified application prior to entry of this Amendment. Claims 5-11, and 12-14 have been previously withdrawn as drawn to non-elected subject matter and for this purpose these claims are currently withdrawn pending examination of the elected species. Claim 20 has been added. Accordingly, after entry of this Amendment, claims 1-20 are pending in this case, claims 1-4 and 15-20 to be examined initially. An obvious typographical error in claim 1 in the definition of R^2 as (C_3-C_9) cycloalkyl has been corrected to read (C_3-C_9) cycloalkyl. Claim 1 has also been amended as described further below. The changes to the claims do not constitute the addition of new matter and full support for the changes may be found in the specification and claims as originally filed.

Rejection Under 35 U.S.C. §112, First Paragraph

The Examiner has rejected claims 1-4 and 15-19 as allegedly failing to meet the enablement /written description requirement of 35 U.S.C. §112, first paragraph. This rejection is respectfully traversed. The Examiner alleges that the specification is not enabling for the terms prodrugs and solvates of the claimed compounds. In order to advance the prosecution of the case and without acquiescing to the correctness of this rejection, Applicant has deleted the terms prodrugs and solvates from claims 1 and 5.

In view of these amendments and remarks, withdrawal of the rejections under 35 U.S.C. §112, first paragraph, is respectfully requested.

Rejection Under 35 U.S.C. §112, Second Paragraph

The Examiner has rejected claims 1-4 and 15-19 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The term "prodrug" is said to render the scope of claim 1 indefinite. In order to advance the prosecution of the case and without acquiescing to the correctness of this rejection, Applicant has deleted the term "prodrug" from claims 1 and 5.

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In addition, Claim 1 has been rejected as indefinite because the terms "amide" and "heterocycloalkyl" in the definition of R^2 and "sulfonyl and keto in the definition of R^3 are not deemed to be clear and well defined in the specification. Applicant asserts that these terms are well known in the art and would be understood by those skilled in the art in light of the specification. However, in order to advance the prosecution of the case and without acquiescing to the correctness of this rejection, Applicant has deleted the terms "amide" in the definition of R^2 and "sulfonyl" and "keto" in the definition of R^3 . In addition, Claim 1 has been amended to substitute "(C₁-C₈)alkyl-SO₂-" for "sulfonyl" and "(C₁-C₈)alkylC(=O)-" for "keto". Support for this amendment is found in claim 2 as originally filed. Additionally, the term "heterocycloalkyl" in the definition of R^2 in claims 1 and 5 has been replaced by the term "heterocyclyl". Support for this term is found in the specification as filed at page 5, lines 11 et seq.

Claim 2 has been rejected as being indefinite for failing to provide antecedent basis for the terms "(C₁-C₈)alkyl-SO₂-" and "(C₁-C₈)alkylC(=O)-". The amendment of claim 1 has obviated this rejection.

In view of these amendments and remarks, withdrawal of the rejections under 35 U.S.C. §112, second paragraph, is respectfully requested.

The above discussion and corresponding amendments are based on section 112 issues and are not made to overcome art-based rejections. Accordingly, such discussion and corresponding amendments should not be construed in a limiting manner.

Rejection Under 35 U.S.C. §102(a) and §102(e)

The Examiner has rejected claims 1-4 under 35 U.S.C. §102(a) and §102(e) as allegedly anticipated by WO 02/48152 when R^2 is amino and $n=0$ and R^3 is H, (C₁-C₈) alkyl, halo, (C₁-C₈) alkoxy or cyano.

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In light of the amendment of claim 1 discussed above deleting the term "amino" from the definition of R^2 in light of the Examiner's indefiniteness rejection, this rejection is moot.

Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §102(a) and §102(e) over WO 02/48152.

Rejection Under 35 U.S.C. §102(b)

The Examiner has rejected claims 1-4 under 35 U.S.C. §102(b) as allegedly anticipated by DeMeester et al when R^2 is methyl, ethyl, n-propyl, isopropyl and hydroxy-sec-butyl, $n=0$ and R^3 is H, (C_1-C_8) alkyl, halo, (C_1-C_8) alkoxy or cyano.

Claim 1 has been amended to define R^2 as H, (C_6-C_8) alkyl, halo, (C_6-C_8) alkoxy or cyano. Claim 20 has been added. Claim 20 defines R^2 as H, (C_1-C_8) alkyl, halo, (C_1-C_8) alkoxy or cyano and deletes H as a substituent at R^3 .

In view of these amendments and remarks, withdrawal of the rejections under 35 U.S.C. §102(b) is respectfully requested.

It is respectfully submitted that the claims have been put in condition for allowance. Notification to this affect is earnestly solicited. The Examiner is encouraged to contact the Applicant's undersigned attorney to discuss this matter if any questions should arise upon further examination of the pending claims.

Respectfully submitted,

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